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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/643,004	08/21/2000	Garry A. Mercaldi	MI22-1358	8352

21567 7590 09/22/2005  
WELLS ST. JOHN P.S.  
601 W. FIRST AVENUE, SUITE 1300  
SPOKANE, WA 99201

EXAMINER
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MALDONADO, JULIO J

ART UNIT	PAPER NUMBER
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2823

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

**Office Action Summary**

Application No.

09/643,004

Applicant(s)

MERCALDI, GARRY A.

Examiner

Julio J. Maldonado

Art Unit

2823

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.  
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-41 and 47-69 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☒ Claim(s) 47-60 and 69 is/are allowed.  
 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
 7) ☒ Claim(s) 9-41 and 61-68 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 20050706.  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☒ Other: Paper No. 080505.

### **DETAILED ACTION**

1. The rejection as set forth in Office Action mailed on 04/06/2005 is withdrawn in view of Applicants' response.
2. The petition under 37CFR 1.144 and 1.181(d) filed in 07/06/2005 to remove the species restriction as set forth in the Office Action mailed on 12/16/2003 has been granted. Therefore, said restriction is withdrawn. The letter indicating said decision is included in this Office Action.
3. Claims 9-41 and 47-69 are pending in the Application.

### ***Claim Objections***

4. Claim 25 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 25, recite "...wherein the chemisorbed first specie layer is one monolayer thick...". However, independent claim 9, recites "...forming a deposition layer comprising a chemisorbed first specie layer about one monolayer thick...", thus failing to further limit dependent claim 25.
5. Claim 32 is also objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 32, recite "...wherein the initiation layer is one monolayer thick...". However, independent claim

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31, recites "...forming an initiation layer about one monolayer thick...", thus failing to further limit dependent claim 31.

***Allowable Subject Matter***

6. Claims 9-24, 26-31, 33-41 and 61-68 would be allowable if rewritten to overcome the claim objections set forth in this Office action.

7. Claims 47-60 and 69 are allowed.

***Conclusion***


8. Applicants are encouraged, where appropriate, to check Patent Application Information Retrieval (PAIR) (<http://portal.uspto.gov/external/portal/pair>) which provides applicants direct secure access to their own patent application status information, as well as to general patent information publicly available.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Julio J. Maldonado whose telephone number is (571) 272-1864. The examiner can normally be reached on Monday through Friday.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Smith, can be reached on (571) 272-1907. The fax number for this group is 571-273-8300. Updates can be found at <http://www.uspto.gov/web/info/2800.htm>.

Julio J. Maldonado  
September 16, 2005

Julio J. Maldonado  
Patent Examiner  
Art Unit 2823

  
George Fourson  
Primary Examiner



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Paper No. 080505

James E. Lake  
Wells St. John P.S.  
601 W. First Avenue  
Suite 1300  
Spokane, WA 99201-3828

Appl No.: 09/643,004	:	
Inv: Mercaldi	:	<b>DECISION ON PETITION</b>
Filed: August 21, 2000	:	<b>UNDER 37 CFR 1.144 and</b>
For: Low Selectivity Deposition Methods	:	<b>1.181(d)</b>

This is a decision on the applicant's "Petition to Review and Remove a Restriction based upon a Species Restriction" filed under 37 CFR 1.144 and 1.181(d) filed July 6, 2005. The applicant requests that the Director review the species restriction made in the December 16, 2003 office action whereupon the applicant elected with traverse Species 1 reading upon claims 9-41, 47-51, 54 and 58 of the application. In the office action of April 20, 2004, the examiner indicated that the applicant's attempted traversal was not persuasive and made the restriction final. Thereby, the examiner did not examine claims 52, 53, 55-57 and 59.

After a careful review of the file and having reconsidered the arguments provided in the petition, the petition is hereby **granted**.

The first species is generic to the remaining species as the claims of Species 1 and 2 are not mutually exclusive as required by MPEP §806.04(f). Species 1 can read on Species 2. Therefore, the above mentioned requirement is not met.

The application is being forwarded to the Examiner for further prosecution on all of the remaining claims.

A handwritten signature in black ink, appearing to read 'M. S. Smith', with a stylized, cursive script.

Matthew S. Smith

Supervisory Primary Examiner AU 2825

Technology Center 2800